IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

WA.No. 366 of 2005()

AGAINST THE JUDGEMENT IN WPC.837/2005 Dated 24/01/2005
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APPELLANT: PETITIONER

R.RADHAKRISHNA PILLAI,
SUMASREE, NALLILA P.O., KOLLAM.

BY ADV. SRI.P.B.SURESH KUMAR

RESPONDENTS/RESPONDENTS
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1. STATE OF KERALA, REP. BY THE
CHIEF SECRETARY, GOVERNEMNT SECRETARIAT,
THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR, KOLLAM.

3. PRATHAPA VARMA THAMPAN, MEMBER,
LEGISLATIVE ASSEMBLY, CHATHANNOOR,
RESIDING AT KRISHNA KRIPA, THEVALLY,
PALACE WARD,KOLLAM.

4. BLOCK DEVELOPMENT OFFICER,
ITHIKKARA, KOLLAM.

5. ASSISTANT EXECUTIVE ENGINEER,
DISTRICT RURAL DEVELOPMENT AUTHORITY, KOLLAM.

6. ASSISTANT ENGINEER,
KOTTARAKKARA GRAMA PANCHAYAT,
KOTTARAKKARA.

7. OVERSEER, DISTRICT RURAL DEVELOPMENT
AUTHORITY, KOLLAM.

R1 & R2 BY GOVERNMENT PLEADER MR.T.B.HOOD

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08/12/2006, THE COURT ON 12/12/2006 DELIVERED THE FOLLOWING:

V.K. BALI, C.J. & S.SIRI JAGAN, J.

W.A.No.366 of 2005

Dated, this the 12th day of December, 2006

JUDGMENT

V.K.Bali,C.J.

Challenge in the present writ appeal is to order dated 24th January, 2005 passed by a learned Single Judge of this Court in W.P.(C) No.837 of 2005. The appellant, petitioner in the original lis, challenged the order Ext.P4 passed by the Kerala Lok Ayukta. By the impugned order mentioned above the Lok Ayukta directed the complainant in the matter to implead the petitioner as additional respondent. The petitioner was awarded the work in relation to a road. Respondents 4 to 6 were responsible for implementing, check measuring and supervising the works. On being impleaded the petitioner urged before the Lok Ayukta that it was vested with authority only to proceed against public and Government servants and Lok Ayukta would not have jurisdiction to proceed against private individuals like the petitioner. The plea raised by the petitioner was rejected by the Lok Ayukta thus

constraining him to file the writ petition which has been dismissed by the learned Single Judge.

2. The learned Single Judge observed in the impugned order that the third respondent has filed a complaint in which persons who are otherwise amenable to the jurisdiction of the Lok Ayukta shall have to be called. The complaint is not only against the petitioner, a private individual, in his personal capacity. It will be open to the petitioner to raise all his contentions as and when he gets opportunity even with regard to the jurisdictional absence of Lok Ayukta and that the order which only directs impleadment of the petitioner would not be illegal.

3. we find no illegality or infirmity in the order passed by the learned Single Judge. It was always open to the petitioner to contend that no adverse orders can be passed against him as his conduct or allegation against him cannot be enquired into by the Lok Ayukta. Surely, if such a plea is raised, the same shall also have to be gone into by the Lok Ayukta. Mere presence of the petitioner may be required even with a view to substantiate the charges against the persons mentioned in the complaint against

whom the Lok Ayukta can legally proceed. The mere presence of the petitioner at this stage would cause no prejudice to him.

Finding no merit in the writ appeal we dismiss the same.

V.K. BALI,
CHIEF JUSTICE.

S.SIRI JAGAN,
JUDGE.

vns